IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.658 OF 2005

The State of Maharashtra ..Appellant

V/s.

Bapusaheb Shamrao Yadav & Ors. ..Respondents

Mrs.U.V.Kejriwal, Addl.Public Prosecutor for the Appellant/State.

Coram : R.M.LODHA & R.S.MOHITE,JJ

Date : 11.02.2005.

PC

. Heard the learned Additional Public Prosecutor for the appellant/State and perused the impugned Judgment.

2. As many as 26 accused persons who are arraigned as respondents in the present Appeal were put to trial for the offences punishable under Sections 143, 147, 148, 435,436 read with 149 and 323 and 506 of IPC.

3. All the accused persons were acquitted for the said offences vide Judgment dated 27.7.2004 passed by the IIIrd Adhoc, Asstt.Sessions Judge, Sangli. Upon consideration of the prosecution evidence and

the defence set up by the accused persons in the Cross-examination of the prosecution witnesses, the trial court observed thus :-

. Considering the prosecution evidence and the defence raised by the accused persons in the cross-examination, it is crystal clear that two political rival groups are active in the village Waifal. The complainant himself has admitted that he has filed one case prior to the incident and subsequent two cases after lodging F.I.R. in present case. Further, it is to be noted that the accused nos.1 to 26 involved in this case, are of Rashtravadi Congress party and the prosecution witnesses belonged to other group. It is surprise to note that not a single person, who is the accused in this case, belonged to the other rival group. There is every possibility that due to political rivalry, F.I.R. is lodged by making false accusation. It revealed from the circumstances that there was a possibility to inform to the police when they had come for enquiry immediately after happening of the incident. At that time, the complainant, his son and wife did not disclose about the incident to the police and also injuries caused to their person due to pelting stones. Moreover, presence of the accused persons on the spot is not noticed by any neighbour. PW 8 Muktabai is staying on the back side of the complainant. She is in relation. She had lodged a report against the accused persons in the police station alongwith present complainant. Thus, evidence of both these witnesses have not given much support to the prosecution. The sterio type version of the complainant-PW 3, PW 5 and PW 9 have not supported to the material allegations set out in F.I.R. The name of PW 1 Samadhan Yadav did not appear in the F.I.R. However, it is version of these three witnesses that from Samadhan PW 1 they got the knowledge about the incident which is likely to be happened. There is no eye witness on the fire incident. The learned defence counsel Shri P.I.Jadhav has rightly argued that the material allegations levelled against the accused have not been proved by the prosecution.

4. The learned Addl.Public Prosecutor could not demonstrate anything to the contrary. What appears

to us is that the present case is an off-shoot of a political rivalry and the respondents who are political rivals of the complainant-party have been falsely implicated. The trial Judge has analysed the evidence at quite some length and the conclusion deduced therefrom does not appear to us to suffer from any legal or factual infirmities.

5. No case for grant of leave is made out.

6. Criminal application for leave to appeal is accordingly rejected.

(R.M.LODHA,J)

(R.S.MOHITE,J)